

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ROBERT PLUMA,

Plaintiff,

-against-

THE CITY OF NEW YORK, a municipal entity; NEW YORK
CITY POLICE OFFICERS “JOHN DOES 1-50”,

Defendants.

**ANSWER ON BEHALF OF
CITY OF NEW YORK**

13 CV 2017

Jury Trial Demanded

-----X
Defendant CITY OF NEW YORK by it’s attorney, Michael A. Cardozo,
Corporation Counsel of the City of New York, for it’s answer to the complaint, respectfully
alleges, upon information and belief, as follows:

1. Denies the allegations in paragraph “1” of the complaint, except admit that plaintiff purports to bring this action as stated therein.
2. Denies the allegations in paragraph “2” of the complaint.
3. Denies the allegations in paragraph “3” of the complaint, except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
4. Denies the allegations in paragraph “4” of the complaint, except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
5. Denies the allegations in paragraph “5” of the complaint, except admit that plaintiff purports to lay venue as stated therein.
6. Paragraph “6” of the complaint is a jury demand to which no response is required.

7. Admits a document purporting to be a notice of claim was received on or about March 27, 2012 by the City of New York and that claim has not been adjusted.

8. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “8” of the complaint.

9. Admit that the City of New York is a municipal entity, and respectfully direct the Court to the New York City Charter and Administrative Code for a recitation of the relationship between the City and the New York City Police Department.

10. Admit that the City of New York is a municipal entity, and respectfully direct the Court to the New York City Charter and Administrative Code for a recitation of the relationship between the City and the New York City Police Department.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of the complaint regarding the unidentified individuals.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the complaint regarding the unidentified individuals.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “13” of the complaint regarding the unidentified individuals, and further note that whether individuals were acting within the scope of their employment is an averment of law which does not require a response.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “15” of the complaint

16. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “16” of the complaint.

17. Admits the allegations set forth in paragraph “17” of the complaint.

18. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “18” of the complaint.

19. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “19” of the complaint.

20. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “20” of the complaint.

21. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “21” of the complaint.

22. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “22” of the complaint.

23. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “23” of the complaint.

24. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “24” of the complaint.

25. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “25” of the complaint.

26. Denies the allegations set forth in paragraph “26” of the complaint.

27. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “27” of the complaint.

28. Denies the allegations set forth in paragraph “28” of the complaint.

29. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “29” of the complaint.

30. Denies the allegations set forth in paragraph “30” of the complaint.

31. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “31” of the complaint.

32. Denies the allegations set forth in paragraph “32” of the complaint.

33. Denies the allegations set forth in paragraph “33” of the complaint.

34. Denies the allegations set forth in paragraph “34” of the complaint.

35. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “35” of the complaint.

36. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “36” of the complaint.

37. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “37” of the complaint.

38. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “38” of the complaint.

39. Denies the allegations set forth in paragraph “39” of the complaint.

40. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “40” of the complaint.

41. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “41” of the complaint.

42. Denies the allegations set forth in paragraph “42” of the complaint.

43. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “43” of the complaint.

44. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “44” of the complaint.

45. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “45” of the complaint.

46. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “46” of the complaint.

47. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “47” of the complaint.

48. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “48” of the complaint.

49. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “49” of the complaint.

50. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “50” of the complaint.

51. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “51” of the complaint.

52. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “52” of the complaint.

53. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “53” of the complaint.

54. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “54” of the complaint.

55. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “55” of the complaint.

56. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “56” of the complaint.

57. In response to the allegations set forth in paragraph "57" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

58. Denies the allegations set forth in paragraph “58” of the complaint.

59. Denies the allegations set forth in paragraph “59” of the complaint.

60. Denies the allegations set forth in paragraph “60” of the complaint.

61. Denies the allegations set forth in paragraph “61” of the complaint.

62. Denies the allegations set forth in paragraph “62” of the complaint.

63. Denies the allegations set forth in paragraph “63” of the complaint.

64. Denies the allegations set forth in paragraph “64” of the complaint.

65. In response to the allegations set forth in paragraph "65" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

66. Denies the allegations set forth in paragraph “66” of the complaint.

67. Denies the allegations set forth in paragraph “67” of the complaint.

68. Denies the allegations set forth in paragraph “68” of the complaint.

69. In response to the allegations set forth in paragraph "69" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

70. Denies the allegations set forth in paragraph “70” of the complaint.

71. Denies the allegations set forth in paragraph “71” of the complaint.

72. Denies the allegations set forth in paragraph “72” of the complaint.

73. Denies the allegations set forth in paragraph “73” of the complaint.

74. Denies the allegations set forth in paragraph “74” of the complaint.

75. Denies the allegations set forth in paragraph “75” of the complaint.

76. In response to the allegations set forth in paragraph "76" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

77. Denies the allegations set forth in paragraph “77” of the complaint.

78. Denies the allegations set forth in paragraph “78” of the complaint.

79. Denies the allegations set forth in paragraph “79” of the complaint.

80. Denies the allegations set forth in paragraph “80” of the complaint.

81. Denies the allegations set forth in paragraph “81” of the complaint.

82. In response to the allegations set forth in paragraph "82" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

83. Denies the allegations set forth in paragraph “83” of the complaint.

84. Denies the allegations set forth in paragraph “84” of the complaint.

85. Denies the allegations set forth in paragraph “85” of the complaint.

86. In response to the allegations set forth in paragraph "86" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

87. Denies the allegations set forth in paragraph “87” of the complaint.

88. Denies the allegations set forth in paragraph “88” of the complaint.

89. Denies the allegations set forth in paragraph “89” of the complaint.

90. In response to the allegations set forth in paragraph "90" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

91. Denies the allegations set forth in paragraph “91” of the complaint.

92. Denies the allegations set forth in paragraph “92” of the complaint.

93. Denies the allegations set forth in paragraph “93” of the complaint.

94. Denies the allegations set forth in paragraph “94” of the complaint.

95. Denies the allegations set forth in paragraph “95” of the complaint.

96. Denies the allegations set forth in paragraph “96” of the complaint.

97. In response to the allegations set forth in paragraph "97" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

98. Denies the allegations set forth in paragraph “98” of the complaint.

99. Denies the allegations set forth in paragraph “99” of the complaint.

100. Denies the allegations set forth in paragraph “100” of the complaint.

101. Denies the allegations set forth in paragraph “101” of the complaint.

102. Denies the allegations set forth in paragraph “102” of the complaint.

103. In response to the allegations set forth in paragraph "103" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

104. Denies the allegations set forth in paragraph “104” of the complaint.

105. Denies the allegations set forth in paragraph “105” of the complaint.

106. Denies the allegations set forth in paragraph “106” of the complaint.

107. Denies the allegations set forth in paragraph “107” of the complaint.

108. Denies the allegations set forth in paragraph “108” of the complaint.

109. Denies the allegations set forth in paragraph “109” of the complaint.

110. Denies the allegations set forth in paragraph “109” of the complaint.

111. In response to the allegations set forth in paragraph "111" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

112. Denies the allegations set forth in paragraph “112” of the complaint.

113. Denies the allegations set forth in paragraph “113” of the complaint.

114. Denies the allegations set forth in paragraph “114” of the complaint.

115. Denies the allegations set forth in paragraph “115” of the complaint.

116. In response to the allegations set forth in paragraph "116" of the complaint, defendant repeats and re-allege the responses set forth in the preceding paragraphs of this answer as if fully set forth herein.

117. Denies the allegations set forth in paragraph “117” of the complaint.

118. Denies the allegations set forth in paragraph “118” of the complaint.

119. Denies the allegations set forth in paragraph “119” of the complaint.

120. Denies knowledge or information sufficient to form a belief with respect to the allegations set forth in paragraph “120” of the complaint.

121. Denies the allegations set forth in paragraph “121” of the complaint.

122. Denies the allegations set forth in paragraph “122” of the complaint.

123. Denies the allegations set forth in paragraph “123” of the complaint.

124. Denies the allegations set forth in paragraph “124” of the complaint.

125. Denies the allegations set forth in paragraph “125” of the complaint.

126. Denies the allegations set forth in paragraph “126” of the complaint.

127. Denies the allegations set forth in paragraph “127” of the complaint.

128. Denies the allegations set forth in paragraph “128” of the complaint.

129. Denies the allegations set forth in paragraph “129” of the complaint.

130. Denies the allegations set forth in paragraph “130” of the complaint.

131. Denies the allegations set forth in paragraph “131” of the complaint.

132. Denies the allegations set forth in paragraph “132” of the complaint.

133. Denies the allegations set forth in paragraph “133” of the complaint.

134. Denies the allegations set forth in paragraph “134” of the complaint.

135. Denies the allegations set forth in paragraph “135” of the complaint.

136. Denies the allegations set forth in paragraph “136” of the complaint.

137. Denies the allegations set forth in paragraph “137” of the complaint.

138. Denies the allegations set forth in paragraph “138” of the complaint.

139. Denies the allegations set forth in paragraph “139” of the complaint.

140. Denies the allegations set forth in paragraph “140” of the complaint.

141. Denies the allegations set forth in paragraph “141” of the complaint.
142. Denies the allegations set forth in paragraph “142” of the complaint.
143. Denies the allegations set forth in paragraph “143” of the complaint.
144. Denies the allegations set forth in paragraph “144” of the complaint.
145. Denies the allegations set forth in paragraph “145” of the complaint.
146. Denies the allegations set forth in paragraph “146” of the complaint.
147. Denies the allegations set forth in paragraph “147” of the complaint.
148. Denies the allegations set forth in paragraph “148” of the complaint.
149. Denies the allegations set forth in paragraph “149” of the complaint.
150. Denies the allegations set forth in paragraph “150” of the complaint.
151. Denies the allegations set forth in paragraph “151” of the complaint.
152. Denies the allegations set forth in paragraph “152” of the complaint.
153. Denies the allegations set forth in paragraph “153” of the complaint.
154. Denies the allegations set forth in paragraph “154” of the complaint.
155. Denies the allegations set forth in paragraph “155” of the complaint.
156. Denies the allegations set forth in paragraph “156” of the complaint.
157. Denies the allegations set forth in paragraph “157” of the complaint.
158. Denies the allegations set forth in paragraph “158” of the complaint.
159. Denies the allegations set forth in paragraph “159” of the complaint.
160. Denies the allegations set forth in paragraph “160” of the complaint.
161. Denies the allegations set forth in paragraph “161” of the complaint.
162. Denies the allegations set forth in paragraph “162” of the complaint.
163. Denies the allegations set forth in paragraph “163” of the complaint.

- 164. Denies the allegations set forth in paragraph “164” of the complaint.
- 165. Denies the allegations set forth in paragraph “165” of the complaint.
- 166. Denies the allegations set forth in paragraph “166” of the complaint.
- 167. Denies the allegations set forth in paragraph “167” of the complaint.
- 168. Denies the allegations set forth in paragraph “168” of the complaint.
- 169. Denies the allegations set forth in paragraph “169” of the complaint.
- 170. Denies the allegations set forth in paragraph “170” of the complaint.
- 171. Denies the allegations set forth in paragraph “171” of the complaint.
- 172. Denies the allegations set forth in paragraph “172” of the complaint.
- 173. Denies the allegations set forth in paragraph “173” of the complaint.

FIRST AFFIRMATIVE DEFENSE:

- 174. The complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE:

175. Defendant has not violated any rights, privileges, or immunities under the Constitution or laws of the United State or the State of New York or any political subdivision thereof, nor have defendants violated any Act of Congress providing for the protection of civil rights.

THIRD AFFIRMATIVE DEFENSE:

176. Any injury alleged to have been sustained resulted from plaintiffs’ own culpable or negligent conduct or that of a third party and was not the proximate result of any act of defendants.

FOURTH AFFIRMATIVE DEFENSE:

- 177. Plaintiff may have failed to comply with the conditions precedent to suit.

FIFTH AFFIRMATIVE DEFENSE:

178. At all times relevant to the acts alleged in the complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

SIXTH AFFIRMATIVE DEFENSE:

179. Plaintiff's claims may be barred by the applicable statute of limitations.

SEVENTH AFFIRMATIVE DEFENSE:

180. At all times relevant to the acts alleged in the complaint, defendant City, its agents and officials, acted reasonably, properly, lawfully and in good faith in the exercise of their discretion. Consequently, defendant City of New York is entitled to governmental immunity.

EIGHTH AFFIRMATIVE DEFENSE:

181. Plaintiff may have failed, in whole or in part, to comply with New York General Municipal Law § 50(e), §50-h, §50-k and §50-i.

NINTH AFFIRMATIVE DEFENSE:

182. Plaintiff provoked any incident.

TENTH AFFIRMATIVE DEFENSE:

183. Plaintiff has failed to mitigate his alleged damages.

WHEREFORE, Defendant CITY OF NEW YORK requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 17, 2013

MICHAEL A. CARDOZO
Corporation Counsel
of the City of New York
Attorney for CITY OF NEW YORK
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By: /s/

Andrew Lucas
Assistant Corporation Counsel
Special Federal Litigation Division

To: Stecklow Cohen and Thompson

